

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 28

AZTECH PLASTERING, LLC
Employer

Case No. 28-RC-267393

and

OPERATIVE PLASTERERS AND
CEMENT MASONS LOCAL 797
Petitioner

MOTION TO CORRECT RECORD

Operative Plasterers and Cement Masons Local 797 (“Petitioner”) hereby submits a motion for the Regional Director to correct the Record as it pertains to her Decision and Direction of Election dated November 25, 2020 (“Decision”).

I

FACTS

The Regional Director’s Decision makes the following finding: “The Petitioner apparently did not file a brief as agreed in the Stipulation.” Decision at 4. This finding is incorrect. Exhibit 1 contains a confirmation that the Petitioner’s brief was filed November 6, 2020 at 12:54 p.m. (UTC-0:700) Arizona time, which is 11:54 a.m. Pacific Time.

On November 17, 2020, Petitioner’s Counsel discovered that the brief was not appearing on the docket and sent an email to the NLRB Investigator asking the following: “Why are my filings not appearing on the docket?” See Ex. 2. The Investigator promptly and professionally responded as follows that same day, confirming that the brief was filed: “I am not sure why the documents you filed are not visible on your end? I do see that they were received by our office on November 16, 2020. I will follow up with our support staff and will gladly get you an answer here shortly!” See Ex. 3. The Investigator then provided the following answer on November 17, 2020: “I was told the document you e-filed is not visible to the public therefore it is not visible on the agency website. However, it was received and is in the casefile.” See Ex. 4.

[Intentionally Left Blank]

II

DISCUSSION

The Petitioner is disappointed that its brief and positions were not considered. Regardless, an accurate record is important, especially when that record reflects upon the conduct of one of the parties. Petitioner conducted itself in accordance with the Stipulation Dated October 9, 2020 ("Stipulation"). Petitioner sought to confirm that its brief and positions were properly submitted and was assured that they were.

The Regional Director should therefore correct the record and enter an order/decision confirming that the Petitioner did in fact act in accordance with promises made in the Stipulation.

Respectfully submitted this 30th day of November 2020.



Evan L. James, Attorney
7440 W Sahara Ave.
Las Vegas, NV 89117
Phone: (702) 255-1718
Fax: (702) 255-1718
elj@cjmlv.com
Attorney for Local 797

CERTIFICATE OF SERVICE

On November 30, 2020, the above motion was served upon the Regional Director through the electronic filing system and upon the other parties as follows:

Dare Heisterman, dheisterman@kzalaw.com
Gregg Kamer, gkamer@kzalaw.com



Evan L. James, Attorney
7440 W Sahara Ave.
Las Vegas, NV 89117
Phone: (702) 255-1718
Fax: (702) 255-1718
elj@cjmlv.com
Attorney for Local 797

EXHIBIT

1

RE: 28-RC-267393 - Other

NLRBRegion28@nlrb.gov <e-Service@service.nlrb.gov>

Fri 11/6/2020 11:57 AM

To: Evan James <elj@cjmlv.com>

Confirmation Number: 1061513507

You have successfully accomplished the steps for E-Filing document(s) with the NLRB Region 28, Phoenix, Arizona. This E-mail notes the official date and time of the receipt of your submission. Please save this E-mail for future reference.

Date Submitted:	Friday, November 6, 2020 12:54 PM (UTC-07:00) Arizona
Regional, Subregional Or Resident Office:	Region 28, Phoenix, Arizona
Case Name:	Aztech Plastering LLC
Case Number:	28-RC-267393
Filing Party:	Petitioner
Name:	Evan James
Email:	elj@cjmlv.com
Address:	7440 West Sahara Avenue
	Las Vegas NV 89117
Telephone:	(702) 255-1718
Mobile:	(435) 851-2548
Fax:	(702) 255-0871
Attachments:	Other: 201106.Statement of Position for Manual Election.pdf

Your account profile is saved in the **NLRB My Account Portal**. [Click here](#) to view your account information, the cases and inquiries you are a party to and any of your previous E-Filings with the NLRB. You will also be able to E-File additional documents to your cases or inquiries. You will use Account No. **1-2422460258** and the email address you used to file your cases or inquiries to access your account. When you use this link to E-File documents your contact information will be pre-populated on the E-Filing page, so that you do not have to reenter your information.

DO NOT REPLY TO THIS MESSAGE. THIS IS A POST-ONLY NOTIFICATION.
MESSAGES SENT DIRECTLY TO THE EMAIL ADDRESS LISTED ABOVE WILL NOT BE READ.

You have E-Filed your document(s) successfully. You will receive an E-Mail acknowledgement noting the official date and time we received your submission. Please save the E-Mail for future reference. You may wish to print this page for your records

Note: This confirms only that the document was filed. It does not constitute acceptance by the NLRB

My Account Portal: Now that you have logged in you may also navigate directly to [My Account Portal](#).

Please be sure to make a note of this confirmation number.

Confirmation Number: 1061513507

Date Submitted: Friday, November 6, 2020 12:54 PM (UTC-07:00) Arizona

Submitted E-File To Office: Region 28, Phoenix, Arizona

Case Number: 28-RC-267393

Case Name: Aztech Plastering LLC

Filing Party: Petitioner

Contact Information:

Evan James

7440 West Sahara Avenue, Las Vegas, NV 89117

Ph: (702) 255-1718

Additional Phone: (435) 851-2548

E-mail: elj@cjmlv.com

Attached Documents:

Other:201106.Statement of Position for Manual Election.pdf

[Start Another E-Filing](#)

EXHIBIT

Re: STIPULATION EXHIBITS: Aztech Plastering LLC (28-RC-267393)

Evan James <elj@cjmlv.com>

Tue 11/17/2020 1:53 PM

To: Dare Heisterman <dheisterman@kzalaw.com>; Ruiz-Lopez, Joel E. <Joel.Ruiz-Lopez@nlrb.gov>

Why are my filings not appearing on the docket?

Evan L. James, Esq.
Christensen James & Martin
7440 W Sahara Ave.
Las Vegas, Nevada 89117
(702) 255-1718

CONFIDENTIALITY NOTICE: This email may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any unauthorized review, use, or distribution is prohibited and may be unlawful.

IRS CIRCULAR 230 DISCLOSURE: To the extent this communication (or any attachment) addresses any tax matter, it may not be relied upon to (i) avoid tax-related penalties under the Internal Revenue Code, or (ii) promote, market or recommend to another party any transaction or matter herein addressed.

From: Ruiz-Lopez, Joel E. <Joel.Ruiz-Lopez@nlrb.gov>
Sent: Tuesday, November 17, 2020 1:50:31 PM
To: Evan James <elj@cjmlv.com>; Dare Heisterman <dheisterman@kzalaw.com>
Subject: RE: STIPULATION EXHIBITS: Aztech Plastering LLC (28-RC-267393)

Hello Evan:

The Regional Director has not issued a Decision in this matter. I will keep you updated as I know more.

Thanks,
Joel

From: Dunn, Lisa J <Lisa.Dunn@nlrb.gov>
Sent: Tuesday, November 17, 2020 1:44 PM
To: Evan James <elj@cjmlv.com>; Dare Heisterman <dheisterman@kzalaw.com>; Ruiz-Lopez, Joel E. <Joel.Ruiz-Lopez@nlrb.gov>
Subject: RE: STIPULATION EXHIBITS: Aztech Plastering LLC (28-RC-267393)

Hi Evan. I am forwarding your emails to Joel to respond regarding the status of this election as this is his assigned case. From the case file, it does not appear that the Region has issued its Decision and Direction of Election specifying the details for the election.

Sincerely,

Lisa J. Dunn, Attorney
NLRB Region 28, Phoenix
2600 N Central Ave., Suite 1400
Phoenix, AZ 85004
(602) 416-4763 direct

EXHIBIT

RE: STIPULATION EXHIBITS: Aztech Plastering LLC (28-RC-267393)

Ruiz-Lopez, Joel E. <Joel.Ruiz-Lopez@nlrb.gov>

Tue 11/17/2020 2:06 PM

To: Evan James <elj@cjmlv.com>; Dare Heisterman <dheisterman@kzalaw.com>

Evan,

I am not sure why the documents you filed are not visible on your end? I do see that they were received by our office on November 16, 2020. I will follow up with our support staff and will gladly get you an answer here shortly!

Thanks,
Joel

From: Evan James <elj@cjmlv.com>**Sent:** Tuesday, November 17, 2020 2:53 PM**To:** Dare Heisterman <dheisterman@kzalaw.com>; Ruiz-Lopez, Joel E. <Joel.Ruiz-Lopez@nlrb.gov>**Subject:** Re: STIPULATION EXHIBITS: Aztech Plastering LLC (28-RC-267393)

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Thanks,
Joel

From: Dunn, Lisa J <Lisa.Dunn@nlrb.gov>**Sent:** Tuesday, November 17, 2020 1:44 PM

EXHIBIT

RE: STIPULATION EXHIBITS: Aztech Plastering LLC (28-RC-267393)

Ruiz-Lopez, Joel E. <Joel.Ruiz-Lopez@nlrb.gov>

Thu 11/19/2020 8:59 AM

To: Evan James <elj@cjmlv.com>; Dare Heisterman <dheisterman@kzalaw.com>

Evan

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Thanks,
Joel

From: Evan James <elj@cjmlv.com>**Sent:** Tuesday, November 17, 2020 2:53 PM**To:** Dare Heisterman <dheisterman@kzalaw.com>; Ruiz-Lopez, Joel E. <Joel.Ruiz-Lopez@nlrb.gov>**Subject:** Re: STIPULATION EXHIBITS: Aztech Plastering LLC (28-RC-267393)

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